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GAO Confirms That Environmental Groups' Appeals Delay Forest Improvement Projects

On May 14, the Government Accounting Office (GAO) released the results of a survey that confirms that the large numbers of appeals filed by environmental interest groups are delaying efforts to restore the health of the nation's forests through thinning of overgrown and diseased areas. These delays increase the threat of severe forest fires, which threaten habitat for endangered species. Moreover, restoring forest health is essential to fostering ecosystem diversity, improving air and water quality, providing recreation opportunities, and enhancing and preserving scenic beauty.

The GAO surveyed 762 specific administrative decisions to implement what it termed forest "fuels-reduction plans" made by the U.S. Forest Service. Of those, 305 were subject to appeal under the National Fire Plan (a law passed by Congress in 2001). Environmental groups did appeal 180 (59 percent) of those decisions, and several of them were appealed multiple times – leading to a total of 267 appeals on the 180 appealed decisions. Moreover, 23 of the administrative decisions were litigated.

Perhaps the most striking of the GAO's findings is that the vast majority of the appeals resulted in no change in the Forest Service's decision: that is, on re-examination, the Forest Service affirmed its original decision in a full 133 of the 180 appealed decisions. Only 19 of the 180 appealed decisions were reversed. Also disturbing is that 52 percent of the appealable decisions that were designed to protect communities from wildfire were appealed. During the review process, these communities remained under the threat of catastrophic wildfire. The survey also found that of the 267 appeals, 55 were not processed within the required 90 days. Reasons cited for delays included inadequate staffing and appeals backlogs.

In addition to the delays caused by the administrative appeals process, there have also been 23 decisions challenged in the courts, 10 of which have not been resolved. Those, too, affect timely implementation of forest restoration plans and add significantly to the government's costs.

GAO Survey Underscores Need to Address Forest Health Appeals Process

It is clear from the GAO's survey that the Forest Service's attempts to enhance forest health and reduce the threat of destructive fires are being delayed by large numbers of meritless appeals. It is disturbing that the Forest Service must address itself to such a large number of appeals that result in nothing but delay and increased bureaucratic costs.

Moreover, by focusing narrowly on the appeals themselves, the GAO's survey doesn't take into account the full effect of the appeals process on forest health. According to the Forest Service, much of the effort and cost associated with the appeals process is attributed to the need to "bulletproof" the decisions from potential appeals. This leads to an extraordinarily lengthy, complex, and often redundant decision-making process that doesn't add value or aid in decision making, but is necessary only to prevent decisions from being reversed. "Too often, the Forest Service is so busy meeting procedural requirements, such as preparing voluminous plans, studies, and associated documentation, that it has trouble fulfilling its historic mission: to sustain the health, diversity, and productivity of the nation's forests and grasslands to meet the needs of present and future generations. Too frequently, the paralysis results in catastrophe" (USDA/Forest Service, 2002).

The Forest Service estimates that it spends \$250 million per year on planning and assessment for all national forest projects. This consumes 40 percent of the total direct work at the national forest level and 20 percent of the total funding for managing the national forest system. "Although some planning is obviously necessary, Forest Service officials have estimated that improving administrative procedures could shift up to \$100 million a year from unnecessary planning to actual project work to restore ecosystems and deliver services on the ground," according to the Forest Service (USDA/Forest Service, 2002).

By streamlining the Forest Service's administrative appeals process, Congress could help restore health to our forests.

[For a more detailed examination of the forest health policy issue, see RPC paper entitled, "Needed: A Common-Sense Approach to Protecting Our Nation's Forests," issued on 3/12/03.]

Bibliography

USDA/Forest Service (2002). "The Process Predicament – How Statutory, Regulatory and Administrative Factors Affect National Forest Management," June.